

Consumer Directed Options (CDO)

Representative Responsibilities and Expectations

As an appointed representative, you are in charge of services; you act on behalf of the consumer for all functions as the Employer of Record.

Responsibilities

- Plan of Care:** A representative ensures the needs, goals, and duties follow Person Centered Principles. This means each duty and goal has been carefully considered and the consumer's wishes and desires, and best interests are first and foremost. Should you see any need the consumer has not addressed in the Plan of Care, you are responsible for identifying this with the support broker to consider if changes are necessary. This enables you to have a basis for job expectations and job duties for employees you oversee.
- Employees:** There are several aspects regarding employees for which you need to be aware. Many of them are listed in this section.
- Recruiting: You will be responsible for finding employees. You may find employees by many means, utilizing any internet sources, advertising on radio, newspaper, TV, flyers, word of mouth, or through organizations.
- Interviewing: It is highly advised each employee go through a screening process. In the interview, it is recommended you determine the availability of the candidate, the experience the candidate may have with any vulnerable population, any education or training the candidate may have received, and skills that may be relevant to the job. It is highly advised you avoid questions pertaining to characteristics that are unrelated to job performance, such as religion, age, sexual orientation, as these can lead to discrimination claims.
- Hiring: Candidates are required to complete background checks and training to be qualified. You are responsible as an Employer of Record for the fees associated with these qualifications.
- Job Expectations: It is highly advised each employee be provided with a written or typed copy of job expectations and duties. These may include but not limited to: promptness, personal conduct while in the home/out in the community with the consumer, how duties should be conducted for/ assisted with the consumer, and others you feel are appropriate to the situation.
- Disciplinary action: In order to provide fairness to an employee, you should ensure you have a procedure in place for various events or causes of unsatisfactory employment performance. It is highly advised you provide a written or typed copy of what warrants a verbal warning, a written warning, suspension, or termination of employment, or other means of disciplinary action. This provides clear instruction

to the employee of your expectations, as well as supports you should unemployment claims be filed against you.

Authorizing Time: Your employees are responsible for submitting timesheets, including service documentation, for each day services are provided. You are responsible for authorizing that services were performed to your satisfaction, as well as meeting the terms of the plan of care. Should you disagree with the hours performed or the statements of the duties provided, you should speak with your employee immediately to determine if revisions can be agreed upon. Should an agreement not be reached, you may need to consult with the Department of Labor to resolve the situation.

Employee

Requirements: Before employees can begin under CDO, the following requirements must be completed:

Criminal Record Check:

The Administrative Office of the Courts (AOC) is the only required criminal background check for employees. The fee is twenty (\$20) dollars. An employee is prohibited from employment through CDO if results reveal a conviction involved a violent crime or sex crime as defined in KRS 17.165. You as an employer may decide to move forward with a potential employee if other convictions are revealed in those results.

Nurse Abuse Registry:

An employee must have results of a check from the Nurse Abuse Registry; this may be completed online through the Kentucky Board of Nursing. Your support broker may complete this check using any known names of the employee. If results reveal the employee is identified as being on the registry, the employee is prohibited from employment through CDO.

Central Registry Check:

This is a requirement for consumers on ABI, ABI-LT, and SCL consumers only. Results will be sent to the support broker agency. The fee is ten (\$10) dollars. This check must be completed within thirty (30) days of starting employment; should results not return within that timeframe, the employee is considered suspended from CDO payment until results are obtained. If results reveal the employee is identified as being on the registry, the employee is prohibited from employment through CDO.

*Note: Your employee may need to complete an out-of-state equivalent to these background checks if the potential employee has lived outside the state of Kentucky within the last year.

Training: Employees must complete Abuse, Neglect, and Exploitation training. This can be conducted by the representative if desired. The representative is also responsible for providing any material/funding related to any additional specified, required training.

Annual budget: A consumer is able to access a dollar amount as long as medical Level of Care is met, and Financial Eligibility is maintained. This amount may be renewed annually. The budget is used to cover employees' wages for hours worked, and employer taxes incurred. A dollar amount may be requested to set aside for Goods and Services if necessary. Additional funding for an annual budget may be necessary to cover the care needed for a consumer; speak with a support broker to further understand these circumstances.

Employer taxes: As an Employer of Record, you are responsible to the federal, state, and local government for any taxes associated with operating a business with employees. Your support broker works in close connection with the Financial Management Agent (FMA) to provide detailed information about what dollars are submitted for federal and state unemployment taxes, FICA (Federal Insurance Contributions Act), and any local taxes associated with a city or county for which the consumer resides. The FMA will express these taxes in a percentage that is added to the employees' wages as they submit timesheets. Percentages vary across the state depending on the consumer's circumstance and changes in state and federal law, but the typical percentage is around 11.30% (this percentage is tacked on to every dollar utilized for employees' wages for billing through the FMA). This percentage can change annually, depending on any changes in federal tax laws; be aware these potential changes in federal tax will impact the amount of dollars you have available for employees from year to year. Because where you live may impact this percentage, the FMA will determine the exact percentage as part of your budget.

Unemployment awarded to any employee through a formal dispute of termination will increase the consumer's state unemployment tax rate significantly, reducing the amount of dollars available for services to the consumer, and possibly reducing the maximum wage payable to employees. It is highly advised to review the Authorizing Time and Disciplinary Action sections of this form to minimize the risk of state unemployment tax increase.

Services available: The consumer's waiver has services defined in a very specific manner to meet the consumer's needs. Each of these services has a limit as to how many dollars can be accessed per hour, along with other limits as to how the service can be accessed. It is best to know what is available that may be at the consumer's disposal to best provide care. Your support broker is available to provide details of these services.

Wages available: As required by the Federal Labor Standards Act, you must offer employees a minimum of \$7.25 per hour; be aware this may change in the future. You must also be aware of the highest dollar amount you can provide, as described in the last section, each service has a different limit. The wage limit you provide may be influenced by employer tax rate that is mentioned above in the section **Employer Taxes**.

Hours Worked: You are in charge of setting times for when your employees are scheduled to work. It is best practice to work with the employee to schedule at least one (1) week ahead of time. Should scheduling need to change, it is also best practice to notify any changes to that schedule immediately, as unexpected or repeated disruptions can lead employees to search for employment elsewhere due to unpleasant working conditions. It is best to stay informed with your support broker at least monthly to have a strong understanding of hours you have available for the following weeks and months, as well as understand how are hours are being spent among your employees.

An example in motion: You've got an employee set up, and the consumer has a budget, but how does this work? A key factor in this process is always keeping in mind that, if you increase pay rate, or if tax rate increases, you will have to reduce your hours in order to remain within the issued annual budget. The same thing applies for the amount of hours worked; if you increase the amount of hours, you must decrease the pay rate of employees in order to stay within the issued annual budget.

You have an employee assigned at \$10.00 per hour; your annual budget is \$4,000.00; the support broker has informed you that your employer tax rate is 11.24%; so how many hours can you have your employee work?

Since we have to designate 11.24% toward employer taxes, you must set aside \$449.60 for these taxes over the course of the year. This leaves your consumer with \$3,550.40 to utilize yearly. Over 12 month span, a consumer would average \$295.86 worth of services toward this employee. At \$10.00 per hour, the consumer would have 29.5 hours of services on average per month.

Expectations

Communication/Attendance:

As the representative, you are considered the employer of record, therefore you have direct oversight of the employees and the responsibility of ensuring the plan of care is followed. Should questions arise by the FMA or the support broker, they will be expecting you to answer questions about the program operations or specifics about an employee. Employees should only be bringing business concerns to you and not to the support broker or

the FMA. You must communicate effectively with your support broker in order to establish and maintain fluid operation of CDO.

You are also required to attend support broker face to face visits at least quarterly (no greater than 3 months in between visits). This is to further ensure your participation in the program and involvement with the consumer.

Program Integrity:

A consumer may be subject to disciplinary action within the program for various reasons. You have the responsibility to understand what may warrant a Corrective Action Plan (CAP) so that the consumer is not in jeopardy of losing services in home. Examples can be: Not following the Plan of Care; Failure to pay patient liability; a consumer, family member, employee, or other person threatening or intimidating support brokers or other program staff; the consumer needs more services than the program can provide; prohibiting the support broker or other staff from performing regulatory requirements. It is highly advised to have a detailed conversation with your support broker about these and other possible scenarios.

- ☐ I have read the Representative Responsibilities and Expectations statement. Should I have questions regarding any of the topics referenced above, or other concerns, I will address them with the consumer and support broker with whom I am working for clarification.

_____	_____	_____	_____
Representative	Date	Consumer/Guardian	Date

_____	_____
Representative (print name)	Consumer/Guardian (print name)

_____	_____
Support Broker	Date

Support Broker (print name)